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Secretary for
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California Regional Water Quality Control Board

Los Angeles Region

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Los Angeles Regional Water Quality Control Board

Minutes of April 3, 2003 Regular Board Meeting held at

Metropolitan Water District of Southern California, 700 North Alameda Street,

Los Angeles, California

INTRODUCTION

The meeting was called to order by Chairperson Cloke at 9:20am.

Board Members Present

Julie Buckner-Levy, Susan Cloke, Francine Diamond, Brad Mindlin, H. David Nahai, Christopher Pak, and Tim Shaheen.

Board Members Absent

R. Keith McDonald

Staff Present

Dennis Dickerson, Deborah Smith, David Bacharowski, Ronji Harris, Robert Sams, Jack Price, Steve Cain, Jenny Newman, Laura Gallardo, Blythe Ponek-Bacharowski, Art Heath, Paula Rasmussen, David Hung, Kwang Lee, Michael Lyons, Toni Callaway, Melinda Becker, Don Tsai, Sam Unger, Renee DeShazo, John Geroch, Mazhar Ali, Cassandra Owens, Dionisia Rodriguez, Peter Raftery

Others Present

Steve Shesting, Boeing
Susannah Tunney, City of Arcadia
Mark Gold, Heal the Bay
Joy Krejci, LA County Department of Public Works
Gerry Greene, City of Downey
Diane Sanchez, State Department of
Water Resources
Kimberly Colbert, Charles Abbott Associates
Dan Gristet, Southern California Association
Of Governments
Sharon Green, LA County Sanitation Districts
Vicki Conway, LA County Sanitation Districts

Susan Paulson, Flow Science
Emanuel Treiter, Sierra Heights
Charles Eddy, City of Covina
Mike Huls, City of Diamond Bar
Karrie Fied, Kinder Morgan
Elyse Ditzal, Ventura County
Watershed Protection District
Sheila Bria, City of Los Angeles
Tim Piasky, Building Industry Association
Of Southern California
Larry Forester, City of Signal Hill
Catherine Kuhlman, USEPA Region IX

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Ed Schroder, TECS Environmental
Steven Braband, Biosolutions, Inc.
David Reznick, Malibu Bay Company
Ray Tahir, Cities of Whittier and Irwindale
James Hatchell, Ultramar Wilmington Refinery

Vic Peterson, City of Malibu
Dan Pfeifer, City of Ventura
Jack States, Sierra Heights
Ken Farfsing, City of Signal Hill

Pledge of Allegiance

1. Roll Call

A roll call was taken.

2. Order of Agenda.

The Executive Officer made the following changes to the agenda:

- *Item 8.4 removed form consent*
- *Items 9.1 and 9.2 to be heard at the next meeting*
- *Item 11A continued to a future meeting*
- *Items 11B and 11C to be heard immediately after adoption of the consent calendar*
- *Item 17continued to a future meeting*
- *Item 18 to be heard before Item 12*

There was a motion to approve the changes to the agenda.

MOTION: By Board Member Nahai, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

3. Approval of Minutes for Minutes for March 13, 2003.

The Board moved to adopt the minutes with changes to pages 3-3 and 3-4.

MOTION: By Chair Cloke, seconded by Vice Chair Diamond, and approved on a voice vote. Board member Mindlin abstained from the vote.

4. Board Member Communications and Ex Parte Disclosure

Board Member Mindlin reported that he had a breakfast meeting with LA City Council Member Wendy Grueul to discuss his role on the Regional Board.

Vice Chair Diamond reported that she had coffee with Chris Cambell but that it wasn't ex parte. She added that she received a call from Shelly Sloane about the meeting today but that she did not discuss any items with her.

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Board member Mindlin stated that he received a similar call from Ms. Sloane.

Chair Cloke reported that she and Board member Pak, who is Vice President of the City of Los Angeles Recreation and Parks Commission, met with the general manager for Recreation and Parks to discuss stormwater issues. She also reported that she and Dennis Dickerson, Executive Officer, met with the Mayor, City Manager and staff from the City of Malibu to discuss septic systems and wastewater treatment alternatives.

5A. Public Forum

There were no speakers during Public Forum

5B. Executive Officer's Report

The Executive Officer updated the Board on perchlorate issues, recent enforcement actions, the status of EPA's MTBE hot spot cleanup order, staff's chromium VI activities, staff's recent tour of the Santa Paula Wastewater Treatment Plant, the status of the cleanup and abatement order issued to Halaco, TMDLs, and upcoming NPDES permits.

6. Uncontested Items

The Board adopted the following items on the consent calendar: 7.1-7.5, 8.1-8.3, 14, 15.1 and 15.2, 16.1 and 16.2.

MOTION: By Board Member Shaheen, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

11.C. Review of Basin Planning Activities

Renee DeShazo, Standards and TMDL unit, gave the staff presentation. She reviewed the purpose of the basin plan and the water quality standards contained in it. She then discussed how the increasing emphasis on TMDLs has resulted in increasing interest in basin-planning activities and requests by stakeholders for reviews and revisions. She discussed the possibility of the stakeholder-led or supported technical studies in support of water quality-standard revisions. She stated that the studies would have to be scientifically rigorous, objective, and transparent. She then discussed a review of the Basin Plan prepared by Environmental Defense Sciences for a coalition of stakeholders. She pointed out that the Regional Board has addressed or is addressing several of the issues raised in the report. Finally, she went over a list of upcoming Basin Plan priorities.

Ken Farfsing, City Manager, City of Signal Hill, stated that he supported third party stakeholder involvement. He then introduced a review of the Basin Plan administrative record as prepared by Environmental Defense Sciences (EDS).

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Susan Paulson, EDS, presented a review of the Basin Plan administrative record. She discussed the reasons for the EDS review and its findings, then gave some recommendations. The study found that the Board did not consider economic impacts and public interest factors when determining water quality objectives. She cited the Basin Plan bacteria and mineral water quality objectives as examples of inadequate objectives. Based on the EDS review, she recommended that the Board complete Water Code section 13241 and 13232 assessments, improve Basin Plan water quality objectives, clarify beneficial use criteria, reevaluate beneficial use designations, and revise the Tributary Rule to protect reasonably probable beneficial uses in water bodies that are not merely "tributarially connected."

Mark Gold, Heal the Bay, provided comments on the EDS report. He stated that the Board had already addressed many of the issues brought up by EDS. He cited the Wet and Dry Weather Bacteria TMDLs as examples of how the Board addressed seasonality and natural source issues. He then discussed the controversy over the TSO approach to addressing non-compliance with ammonia objectives. Finally, he asked the Board to include the environmental community when opening technical studies to third parties.

Board Questions

Board Member Pak asked if staff envisioned the stakeholder process as pooling resources to fund joint technical studies or as individual stakeholders contributing individual reports.

Renee DeShazo replied that stakeholder involvement could work either way. She added that any study would be subject to the Basin Plan amendment process, including CEQA requirements, etc.

Chair Cloke asked for staff's take on Susan Paulson and Ken Farfsing's recommendation that the stakeholder group be defined by the regulated community.

Ms. DeShazo replied that the stakeholder group should represent all sides of an issue. She added that staff would also convene a peer review committee.

Susan Paulson added that while the EDS study was largely supported by the regulated community, she advocated a broad-based stakeholder campaign.

Chair Cloke stated that she viewed the EDS report as a view of the regulated community and not as an objective study. She added that such a report would only be one voice in a broad-based stakeholder process.

Vice Chair Diamond noted that one of the funding members of EDS was the Alliance for Water Quality. She asked for the membership of the Alliance for Water Quality.

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Susan Paulson replied that although she was unsure of its entire membership, she believed that one of its members is affiliated with the Western States Petroleum Association.

Board Member Pak stated that the Board viewed all testimony objectively at this point and that the process is participated in by everybody.

The Board members and Susan Paulson then discussed funding for the study, the background, members and clients of EDS, and the intent of the study.

11.C. Workshop on Draft TMDL Strategy

Melinda Becker, Chief, Standards and TMDL unit, gave the staff presentation. She provided a brief overview of comments that staff received on the draft strategy for developing TMDLs and Water Quality Standards released in December 2002 and asked for the Board's guidance on how to finalize the draft. She stated that the strategy was developed jointly by US EPA and the Regional Board staff in order to meet the consent decree schedule for TMDL development. The strategy was designed to address all TMDLs within a particular watershed simultaneously and to facilitate stakeholder involvement by establishing a long-term schedule for their planning needs and developing clear guidelines on stakeholder-led studies. She then reviewed public comments on the draft strategy, including comments on standards review, scheduling and "bundling" of TMDLs, interpretation of waste load allocations, cost analysis, and stakeholder participation.

Catherine Kuhlman, Acting Division Director for Water, U.S. EPA Region IX, stated that the draft approach would encourage strategic watershed thinking, get better results, and harness the money and talent of other stakeholders, in a way that is open, transparent, and scientifically rigorous.

Ken Farfsing, City of Signal Hill, stated that bundling TMDLs by watershed might accelerate the adoption certain TMDLs. He stated that the consent decree schedule limits the city's abilities to apply for grants. He asked the environmental organizations to consider modifying the consent decree schedule.

Ed Schroder, San Gabriel River Watershed, supported a watershed-based approach to the TMDL process. He felt that deadlines should not abort development of effective TMDLs. He felt that implementation of BMPS in MS\$ permits should constitute compliance with MEP standards. He also recommended a better designed data collection process.

Joy Krejci, Los Angeles County Department of Public Works, supported a watershed approach but felt that bundling TMDLs would result in many TMDLs being developed ahead of the consent decree schedule. She also spoke about potential beneficial use designations, permitting and implementation, and stakeholder involvement.

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Ray Tahir, TECS environmental, representing the Cities of Whittier and Irwindale, spoke about the relationship between a given TMDL and the municipal NPDES permit in terms of implementation. He referred to a November 2002 EPA memo, stating that the memo advocated implementing waste load allocations for stormwater through BMPs.

Dan Gristet, Southern California Association of Governments, discussed SCAG's designation as an area-wide planning agency under section 208 of the CWA. He supported a watershed-based approach, and proposed what he stated was a complimentary approach, in which local agencies would plan and implement pollution control measures.

Mark Gold, Heal the Bay, was concerned that the link between standards and TMDLs in the draft approach emphasized de-designation. He stated that a watershed approach would put a strain on staff resources. He added that no one had approached the environmental community regarding modifying the consent decree schedule.

Board Questions

Vice Chair Diamond asked Catherine Kuhlman how, in other parts of the country, stakeholder money was administered.

Ms. Kuhlman replied that in Region 2, money for the metals TMDL was run through the San Francisco Bay Estuary Monitoring Program, which allowed the environmental community to become involved.

Board Member Nahai asked staff to clarify when EPA, in their November 2002 memo, recommended the implementation of numeric limits on "rare occasions" in MS4 permits.

Melinda Becker replied that there was no specific guidance as to what constituted a "rare occasion", but she assumed that it was when the permit writer felt that BMPs could not reasonably meet water quality objectives.

Board Member Nahai asked staff to assure him that in designating beneficial uses, they would not rely on solely on fencing or signage prohibiting swimming, when determining if REC-1 was an appropriate designation.

Ms. Becker replied that U.S. EPA guidance for use attainability analyses recommended that depth of water, access, and actual use be analyzed and that the presence of fencing would not suffice.

Board Member Nahai encouraged staff to assist smaller cities with grant applications to fund TMDL implementation.

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Chair Cloke directed the Executive Officer to write a letter to interested parties with instructions for writing grant proposals.

Board Member Mindlin, expressed the importance of leveraging limited resources effectively so that permittees would not have to retrofit treatment systems for each new TMDL developed.

Board Member Nahai spoke about bundling TMDLs and the concern that it promotes efficiency but accelerates certain TMDLs. He stated that he understood retrofitting could be avoided through TMDL implementation, and would not necessarily be required upon TMDL adoption. He added that Regional Board endorsed stakeholder studies must be considered with strict parameters.

Vice Chair Diamond stated that stakeholder studies should be open and scientifically rigorous. She emphasized that peer review must take place early on in the process.

Chair Cloke stated that she supported a watershed approach and directed staff to keep overall water quality goals in mind when considering stakeholder studies.

8.4. Sierra Heights Mobile Home Estates

Vice Chair Diamond removed this item from the Board in order to ask the discharger a few questions. She asked the discharger about past odor complaints and if they understood that odors are prohibited in the permit.

Emanuel Treitel, representing Sierra Heights Company, stated that the past odor complaint was a singular incident and that he was aware that odors were prohibited in their permit

There was a motion to approve the item.

MOTION: By Vice Chair Diamond, seconded by Board Member Nahai, and approved on a voice vote. No votes in opposition.

10. San Buenaventura (Ventura Water Reclamation Plant) Time Schedule Order (TSO)

Blythe Ponak-Bacharowski, Chief, Watershed Regulatory Section, gave the staff presentation. She stated that the proposed TSO would extend the copper compliance date and would allow Ventura Water Reclamation Plant time to perform a new enhancement study to determine if they comply with salt water or fresh water criteria.

There was a motion to adopt the TSO as proposed by staff.

MOTION: By Board Member Nahai, seconded by Board Member Mindlin, and approved on a voice vote. No votes in opposition.

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18. Malibu Information Item

Dennis Dickerson presented staff's progress in issuing commercial and multi-family WDRs for septic systems in Malibu. He also updated the Board on staff's efforts to work with the City of Malibu on a coordinated monitoring program.

12. Malibu Bay Company (Malibu Bay Colony Plaza)

Paula Rasmussen, Chief, Enforcement and Groundwater Permitting section, gave the staff report. She stated that the Regional Board adopted a WDR and TSO for Malibu Bay company in December 2000. Staff recommended an extension to Malibu Bay Company's TSO to allow the discharger time to appeal the City of Malibu's decision to deny their request for siting of the system.

David Reznick, Malibu Bay Company, summarized the actions taken since the Regional Board originally issued the WDR and TSO and the status of their appeal to the City Council. He added that the litigation between the City and the California Coastal Commission over the proposed LCP might affect timing of the siting approval.

Chair Cloke asked Vic Peterson, City of Malibu, Public Works, to comment on the item.

Mr. Peterson replied that he was not prepared to speak on the matter. He stated that the decision came through the planning department.

There was a motion to amend the TSO as proposed by staff.

MOTION: By Board Member Pak, seconded by Board Member Buckner-Levy, and approved on a voice vote. No votes in opposition.

Steven Braband, representing Malibu bay Company spoke further on Item 18. He stated that one of the major obstacles to issuing general WDRs in the City of Malibu is their requirement of 10 feet separation to groundwater. He suggested that the Board develop a separate beach area general WDR with lower groundwater separation requirements and increased monitoring and treatment requirements.

13. Malibu Bay Club Amended Cease and Desist Order

Paula Rasmussen gave the staff report. She stated that the discharger has run into complications with bids for installation of a new wastewater treatment system because the homeowners association requires a 75% approval. She stated that staff issued a NOV and met with the discharger and recommended that the Board allow the extension.

There was a motion to amend the CDO and allow the extension as proposed by staff.

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MOTION: By Board Member Nahai, seconded by Vice Chair Diamond, and approved on a voice vote. No votes in opposition.

Adjournment of Current Meeting

The meeting adjourned at 3:12 pm. The next regular meeting is scheduled for June 5, 2003, at the City of Simi Valley, Council Chambers, 2929 Tapo Canyon Road, Simi Valley at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting submitted/amended.

Written and submitted by: _____.

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